UNITED NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/CR/28/1
12 June 2002

Original: ENGLISH

COMMITTEE AGAINST TORTURE
Twenty-eighth session
29 April-17 May 2002

## CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

### Conclusions and recommendations of the Committee against Torture

### DENMARK

1. The Committee considered the fourth periodic report of Denmark (CAT/C/55/Add.2) at its 508th, 510th and 518th meetings on 2, 3 and 10 May 2002 (CAT/C/SR.508, 510 and 518) and adopted the following conclusions and recommendations.

### A. Introduction

2. The Committee welcomes the fourth periodic report of Denmark, which was submitted on time and in full conformity with the Committee's guidelines for the preparation of periodic reports. In particular, the Committee welcomes the way the State party has addressed the Committee's previous recommendations in a separate part of the report. The Committee also welcomes the fruitful and open dialogue between the representatives of the State party and itself.

### B. Positive aspects

3. The Committee commends the State party for maintaining a high level of respect for human rights in general and for its obligations under the Convention in particular, as well as for the active role it plays internationally in the fight against torture.

4. The Committee welcomes the recommendation made by the Committee set up by the Ministry of Justice to incorporate three main United Nations human rights treaties, including the Convention, into Danish domestic law.

GE.02-42559 (E) 140602

5. It also notes with satisfaction:

(a) The adoption of the Amendment to the Act on the Administration of Justice, which has greatly tightened the controls over the use of solitary confinement, decreasing its use as well as providing for judicial control over solitary confinement while in remand;

(b) The circulars of the National Commissioner of Police prescribing, inter alia, earlier access by family to detainees, mandatory medical examination of all persons placed in a detention cell, and access to a lawyer and an interpreter without delay;

(c) The adoption of legislation granting a more protective status to asylum-seekers;

(d) The efforts made in educational programmes for the police;

(e) The multidisciplinary treatment of persons living in Denmark who have been victims of torture;

(f) The increase in the State party's contribution to the United Nations Voluntary Fund for Victims of Torture and the continued support to national rehabilitation centres for torture victims.

## C. Subjects of concern

6. The Committee is concerned about the following:

(a) The lack of a definition of torture, as provided in article 1 of the Convention, in the penal legislation of the State party and the lack of a specific offence of torture punishable by appropriate penalties, as required by article 4, paragraph 2, of the Convention;

(b) The lack of effective recourse procedures against decisions imposing solitary confinement upon persons servicing sentences;

(c) The proposed amendment to the Alien's Act which may imply that aliens who have been refused a residence permit must leave the country immediately after the rejection of their application. If strictly applied, this will frustrate the effectiveness of article 22 of the Convention.

## D. Recommendations

7. The Committee recommends that:

(a) The State party ensure the speedy implementation of the recommendation of the Ad Hoc Committee with regard to incorporating the Convention into Danish domestic law;

(b) Denmark establish adequate penal provisions to make torture as defined in article 1 of the Convention a punishable offence in accordance with article 4, paragraph 2, of the Convention;

(c) The State party continue to monitor the effects of solitary confinement on detainees and the effects of the new bill, which has reduced the number of grounds that can give rise to solitary confinement and its length;

(d) The law governing solitary confinement for convicted prisoners establish adequate review mechanisms relating to its determination and duration;

(e) The State party ensure that the proposed amendment to the Aliens Act does not frustrate effective recourse by aliens to the Committee as provided in article 22 of the Convention;

(f) The State party widely disseminate the Committee's conclusions and recommendations, in all appropriate languages, in the country.

---

**UNITED NATIONS**

**CAT**

**Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

Distr.
GENERAL

CAT/C/CR/28/2
12 June 2002

Original: ENGLISH

COMMITTEE AGAINST TORTURE
Twenty-eighth session
29 April-17 May 2002

# CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

## Conclusions and recommendations of the Committee against Torture

## LUXEMBOURG

1. The Committee considered the combined third and fourth periodic reports of Luxembourg (CAT/C/34/Add.14) at its 514th, 517th and 525th meetings, held on 7, 8 and 15 May 2002 (CAT/C/SR.514, 517 and 525), and adopted the following conclusions and recommendations.

### A. Introduction

2. The Committee welcomes the third and fourth periodic reports of Luxembourg, which were combined in a single document following the Committee's recommendation. The report was submitted on time and is in full conformity with the guidelines of the Committee for the preparation of State party periodic reports. The Committee compliments the State party for the excellent quality of its report and welcomes the fruitful and constructive dialogue with the high-level delegation of the State party during its consideration.

### B. Positive aspects

3. The Committee commends the State party for maintaining a high level of respect for human rights in general and for its obligations under the Convention in particular.

4. The Committee notes the following positive developments:

(a) That all matters of concern as well as previous recommendations of the Committee have been positively addressed in detail;

(b) That by the Act of 24 April 2000 torture has been incorporated into the Penal Code as a specific crime and an aggravating circumstance of a crime or offence against the person. Furthermore, the definition of torture is broadly based on the definition contained in article 1 of the Convention, and relates both to physical and psychological torture;

(c) The establishment of the Advisory Commission on Human Rights on 26 May 2000;

(d) The Act of 31 May 1999 establishing the Grand Ducal police force and the General Police Inspection Department, whose main objective is the merger of the Police and the Gendarmerie. The Act also criminalizes, inter alia, trafficking in persons;

(e) The Act of 14 May 2000 by which Luxembourg ratified the Rome Statute of the International Criminal Court.

## C. Subjects of concern

5. The Committee expresses concern about the following:

(a) That minors ordered to be placed in disciplinary centres are put in adult prisons;

(b) The institution of solitary confinement, particularly as a preventive measure during pre-trial detention.

## D. Recommendations

6. The Committee recommends that:

(a) The State party refrain from placing minors in adult prisons for disciplinary purposes;

(b) Solitary confinement be strictly and specifically regulated by law and that judicial supervision be strengthened, so that this punishment is applied only in severe circumstances, with a view to its abolition, particularly during pre-trial detention;

(c) The State party consider making provision for appropriate compensation specifically for victims of torture;

(d) The Committee's conclusions and recommendations be widely disseminated in the State party in all appropriate languages.

- - - - -

UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/CR/28/3
12 June 2002

Original: ENGLISH

COMMITTEE AGAINST TORTURE
Twenty-eighth session
29 April-17 May 2002

# CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

## Conclusions and recommendations of the Committee against Torture

## NORWAY

1. The Committee considered the fourth periodic report of Norway (CAT/C/55/Add.4) at its 511th, 514th and 519th meetings, on 6, 7 and 10 May 2002 (CAT/C/SR.511, 514 and 519), and adopted the following conclusions and recommendations.

### A. Introduction

2. The Committee welcomes the fourth periodic report of Norway, which was submitted on time and is in full conformity with the guidelines of the Committee for the preparation of State party periodic reports. The Committee compliments the State party for ensuring periodicity of reports in a timely manner and welcomes the fruitful and constructive dialogue with the State party.

### B. Positive aspects

3. The Committee commends the State party for maintaining a high level of respect for human rights in general and for the positive record in the implementation of the provisions of the Convention.

4. The Committee notes with satisfaction:

(a) The adoption of a Plan of Action for Human Rights for the period 2000-2004, as part of the follow-up to the 1993 World Conference on Human Rights, indicating, inter alia, measures aiming at the further implementation of the Convention in Norwegian legislation;

(b) The issuance of guidelines on the notification of arrest to relatives and lawyers, as well as concerning the right to access to health care for persons in police custody;

(c) The proposal to incorporate a new provision into the Penal Code that will prohibit and penalize torture, in conformity with article 1 of the Convention;

(d) The proposals made for an amendment to the Criminal Procedure Act to reduce the overall use of solitary confinement and to strengthen its judicial supervision by means of legal regulation and limitation;

(e) The research undertaken to evaluate the quality of investigations carried out by the Special Investigative Bodies;

(f) The regularity and generosity of donations made by the State party to the United Nations Voluntary Fund for Victims of Torture;

(g) The high percentage of women among members of the judiciary, police force and prison staff.

## C. Subjects of concern

5. The Committee continues to be concerned about the use of pre-trial solitary confinement.

## D. Recommendations

6. The Committee recommends that:

(a) Appropriate legislation introducing the offence of torture into the Norwegian penal system in conformity with article 1 of the Convention be enacted, in accordance with the above-mentioned proposal. It requests that information in this regard be included in the next periodic report of Norway;

(b) Information on steps taken to respond to the Committee's ongoing concern about the use of pre-trial solitary confinement be included in the State party's next periodic report;

(c) Information on the outcome of the proposals for amendments to the Criminal Procedure Act on the issue of solitary confinement be included in the State party's next periodic report;

(d) Information on the proposed amendments to the Alien Act on the basis of Security Council resolution 1373 (2001) on international cooperation to combat threats to international peace and security caused by terrorist acts also be included in Norway's next periodic report;

(e) The Committee's conclusions and recommendations be widely disseminated in the country in all appropriate languages.

---

UNITED
NATIONS

CAT

Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment

Distr.
GENERAL

CAT/C/CR/28/4
6 June 2002

Original: ENGLISH

COMMITTEE AGAINST TORTURE
Twenty-eighth session
29 April-17 May 2002

# CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

## Conclusions and recommendations of the Committee against Torture

## RUSSIAN FEDERATION

1. The Committee considered the third periodic report of the Russian Federation (CAT/C/34/Add.15) at its 520th, 523rd and 526th meetings, held on 13, 14 and 16 May 2002 (CAT/C/SR.520, 523 and 526), and adopted the following conclusions and recommendations.

### A. Introduction

2. The Committee welcomes the third periodic report of the Russian Federation, which was submitted with a delay. The report responds directly to some of the concerns and recommendations expressed by the Committee in its conclusions adopted in 1996. The Committee regrets that despite the State party's assurances that it would promptly provide the Committee with the additional information requested in the review, such materials have not been received. The Committee appreciates the updated and detailed information as well as the extensive responses provided by the representatives of the State party in the oral update and reply. The Committee notes, however, that, because of a lack of time, many of the questions asked by the Committee in the review of the third periodic report remained unanswered.

## B. Positive aspects

3. The Committee notes the following positive developments:

(a) The ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

(b) The introduction of a new Criminal Code and a new Code of Criminal Procedure, as well as the State party's assurances that all of the latter Code will enter into force on 1 July 2002. The Committee welcomes the introduction in the Code of Criminal Procedure of, inter alia, jury trials, stricter limits on detention and interrogation, provisions for exclusion of evidence obtained in the absence of a defence lawyer, and the conferral authority of a judge rather than a procurator to order an arrest;

(c) Transfer of the penal correction system from the authority of the Ministry of Internal Affairs to the authority of the Ministry of Justice;

(d) Measures introduced to improve conditions of detention in prisons and to reduce overcrowding;

(e) Assurances by the representative of the State party that alternative service, and a "voluntary military on a contract basis" would be introduced to replace mandatory conscription into the armed forces;

(f) The Procurator General's Order No. 46, which requires the presence of representatives of the Prosecutor's Office during "special operations" carried out in Chechnya, and Order No. 80 of the Commander of the Federal Forces of the North Caucasus, requiring troops to identify themselves, record detentions, notify relatives, and take other measures to safeguard civilians from abuse;

(g) The setting up of a special working group within the Ministry of Internal Affairs with a mandate to bring national legislation into conformity with international refugee law.

## C. Factors and difficulties

4. The Committee appreciates the frank explanations provided by the delegation regarding the difficulties still faced by the State party in overcoming the inheritance of a system characterized by "arbitrariness and impunity" and in building and strengthening democratic institutions and the rule of law. It notes that these challenges are compounded by "acts of terrorism" and threats to security. Nonetheless, the Committee reiterates that, in accordance with article 2 of the Convention, "no exceptional circumstance whatsoever … may be invoked as a justification of torture".

## D. Subjects of concern

5. The Committee is deeply concerned over the following:

(a) Numerous and consistent allegations of widespread torture and other cruel, inhuman or degrading treatment or punishment of detainees committed by law enforcement personnel, commonly with a view to obtaining confessions;

(b) Continuing reports, despite the State party's considerable efforts to initiate dialogue and preventive safeguards such as a "hotline" for victims, of widespread "hazing" (*dedovshchina*) in the military, as well as torture and other cruel, inhuman or degrading treatment or punishment in the armed forces, conducted by or with the consent or approval of officers, resulting in severe physical and mental harm to the victims;

(c) A persistent pattern of impunity for torture and other ill-treatment benefiting both civil and military officials, a lack of reported decisions by judges to dismiss or return a case for further investigation citing the use of torture to obtain a confession, and the very small number of persons convicted of violations of the Convention.

6. The Committee also expresses its concern about the following:

(a) The failure to define torture in domestic law in conformity with article 1 of the Convention. The designation of torture as an aggravating circumstance for some enumerated crimes does not satisfy the requirements of articles 1 and 4 of the Convention;

(b) The numerous cases of convictions based on confessions and the law enforcement promotion system based on the percentage of crimes solved, which, taken together, reportedly create conditions that promote the use of torture and ill-treatment to force detainees to "confess";

(c) The lack of adequate access for persons deprived of liberty, immediately after they are apprehended, to counsel, doctor and family members, an all-important safeguard against torture;

(d) The de facto refusal of judges to take account of evidence of torture and ill-treatment provided by the accused, resulting in the common failure to either investigate or prosecute such cases;

(e) The explanation by the State party that, despite numerous allegations of violence against women in custody, no formal complaint has been received on this issue. Despite the State party's efforts to release prisoners and reduce their number in general, the population of women in custody has doubled in the past decade;

(f) The lack of practical training about obligations under the Convention for doctors, law enforcement personnel and judges, and the military;

(g) Distressing conditions of pre-trial detention, including the prevalence of tuberculosis and other diseases, as well as the poor and unsupervised conditions of detention in IVS (temporary police detention), and SIZOs (pre-trial establishment) facilities, including the practice of placing metal shutters in front of cell windows, preventing natural light and ventilation in the cells, reportedly because, by law, inmates are prohibited from communicating with one another;

(h) The insufficient level of independence and effectiveness of the Procuracy, due, as recognized by the State party, to the problems posed by the dual responsibility of the Procuracy for prosecution and oversight of the proper conduct of investigations;

(i) Reports of conditions amounting to inhuman or degrading treatment of children in institutions or places of detention;

(j) A lack of safeguards to ensure that persons are not returned to countries where they face a real risk of torture (non-refoulement).

7. In connection with the events in Chechnya, the Committee is particularly concerned over the following:

(a) Numerous and ongoing reports of severe violations of human rights and the Convention, including arbitrary detention, torture and ill-treatment, including forced confessions, extrajudicial killings and forced disappearances, particularly during "special operations" or "sweeps", and the creation of illegal temporary detention centres, including "filtration camps". Allegations of brutal sexual violence are unusually common. Additionally, armed units which are reported to be very brutal towards civilians have been sent again into the conflict area;

(b) Numerous armed units and forces operating under the authority of various departments and services in Chechnya, which hinders the identification of the personnel responsible for the reported abusive actions cited above;

(c) A lack of effective implementation of Orders Nos. 46 and 80, as referred to above among the positive aspects;

(d) The dual system of jurisdiction in Chechnya involving both military and civilian prosecutors and courts, which leads to long and unacceptable delays in registering cases, resulting in a cyclical process whereby case information and the responsibility for opening investigations continue to be passed from one official to another and back, without resulting in the initiation of prosecutions. The Committee notes with concern that it is impossible for the civil prosecutor to question military personnel and carry out investigations at military sites in order to collect the evidence required to oblige the military prosecutor's office to take up the case. Also of concern is the insufficient independence of military courts, prosecutors and judges, with the result that few cases are registered to prosecute officials alleged to be responsible for the abuses.

## E. Recommendations

8. The Committee recommends that the State party:

(a) Promptly incorporate into domestic law the definition of torture as contained in article 1 of the Convention and characterize torture and other cruel, inhuman and degrading treatment as specific crimes with appropriate penalties in domestic law;

(b) Adopt measures to permit detainees access to a lawyer, doctor and family members from the time they are taken into custody; inform suspects and witnesses of their rights at the beginning of detention; and ensure that legal assistance and a doctor will be provided at the request of detained persons rather than solely when permitted by officials. Urgent consideration should be given to making a medical examination compulsory for persons when they enter IVS and SIZOs, and to the establishment of a health service independent from the Ministries of Internal Affairs and Justice to conduct such examinations;

(c) Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture and review cases of convictions based solely on confessions, recognizing that many of them may have been obtained through torture or ill-treatment, and, as appropriate, provide compensation to and release persons presenting credible evidence of having been tortured or ill-treated;

(d) Improve conditions in prisons and pre-trial detention centres so that they are in conformity with the requirements of the Convention. The State party should ensure, in particular, that the prohibition of communication between inmates in pre-trial detention is not imposed on all inmates without distinction, but limited to identified inmates, when necessary and on the basis of a court decision setting a time limit for such conditions of detention;

(e) Establish a programme of unannounced inspections of pre-trial detention centres and other places of confinement, by credible impartial investigators, whose findings should be made public;

(f) Consider the creation of an independent body to inspect prisons, monitor all forms of violence in custody, including sexual violence against both men and women, and all forms of inter-prisoner violence, including proxy violence with the acquiescence of officials. The participation of public defenders in the investigation stage following detention would offer a safeguard for detainees;

(g) Ensure training about obligations under the Convention for (i) doctors to detect signs of torture or ill-treatment of persons who have been or are in custody; (ii) law enforcement personnel and judges to initiate prompt and impartial investigations; and (iii) military personnel to be aware of the prohibition of torture and that an order from a superior officer may not be invoked as a justification of torture;

(h) Request the Supreme Court to analyse the existing practices of the admissibility of cases of torture in the courts, in light of the definition of torture provided in article 1 of the Convention, and consider issuing guidelines on this matter;

(i) Ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities and the prosecution and punishment, as appropriate, of perpetrators, as well as the protection of persons who complain of torture and their witnesses from retaliation;

(j) Distribute and ensure implementation of appropriate instructions to all relevant officials on the prohibition of ill-treatment and acts of torture against children in institutions and prisons under the jurisdiction of the State;

(k) Ensure that no person is expelled, returned or extradited to a country where there are substantial grounds for believing that he/she would be in danger of being subjected to torture.

9. With regard to the situation in Chechnya, the Committee also recommends that the State party:

(a) Clarify the jurisdiction over the events in Chechnya, which currently have an uncertain status, as there is no state of exception and there is also a non-international armed conflict in progress. Such clarification could provide individuals with an effective means of seeking redress for any violations committed, so they will not be caught in a vicious circle of various military and civilian departments and agencies with differing degrees of responsibility;

(b) While a number of mechanisms have been put in place in Chechnya in connection with allegations of human rights violations, none has possessed the attributes associated with an independent impartial investigating body. Accordingly, the Committee reiterates its 1996 conclusion calling upon the Government of the State party to establish a credible impartial and "independent committee to investigate allegations of breaches of the Convention by the military forces of the Russian Federation and Chechen separatists, with a view to bringing to justice those against whom there is evidence that establishes their involvement or complicity in such acts" (A/52/44, para. 43 (h));

(c) Ensure the effective implementation of Orders Nos. 46 and 80 and elaborate comprehensive guidelines on the conduct of sweep operations;

(d) Strengthen the powers of the Special Representative of the President for human and civil rights and freedoms in Chechnya to conduct investigations and make recommendations to the prosecutor as to possible criminal cases;

(e) Take steps to ensure civilian control over the army and ensure, in practice, that hazing, torture and ill-treatment are prohibited in the military, among conscripts and officers;

(f) Consider the formation of a joint investigative group of both military and civilian procuracy officials until specific responsibility can be identified and jurisdiction can be established.

10. The Committee further recommends that the State party:

(a) Provide requested data to the Committee, including information disaggregated, inter alia, by age, gender, ethnicity and geography, on civil, military and other places of detention as well as on juvenile detention centres and other relevant institutions; and provide information in the next periodic report regarding the number, types and results of cases of punishment of police and other law enforcement personnel for torture and related offences, including those rejected by the court;

(b) Widely disseminate the conclusions and recommendations of the Committee and the summary records of the review, in appropriate languages, in the country; and consider consulting with independent human rights, civil liberties and legal aid organizations and public defenders groups in the preparation of the next report.

---

UNITED NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/CR/28/5
12 June 2002

Original: ENGLISH

COMMITTEE AGAINST TORTURE
Twenty-eighth session
29 April-17 May 2002

# CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

## Conclusions and recommendations of the Committee against Torture

## SAUDI ARABIA

1. The Committee considered the initial periodic report of Saudi Arabia (CAT/C/42/Add.2) at its 516th, 519th, 521st and 524th meetings, on 8, 10, 13 and 15 May 2002 (CAT/C/SR.516, 519, 521 and 524), and adopted the following conclusions and recommendations.

### A. Introduction

2. The Committee welcomes the submission of the initial report, although it regrets the delay in submission and the paucity of information on the practical enjoyment in Saudi Arabia of the rights conferred by the Convention. It generally conforms to the Committee's reporting guidelines. The Committee also welcomes the opportunity to engage in a dialogue with a large delegation covering many matters arising under the Convention, which was enhanced by the extensive oral report.

GE.02-42566 (E) 190602

## B. Positive aspects

3. The Committee welcomes the following:

(a) The State party's accession to the Convention against Torture on 23 September 1997, as well as its accession to several other core human rights treaties and its expressed intention to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The Committee also welcomes the State party's declaration that its domestic law, including its components based upon Shariah, is capable of giving full recognition to the rights and obligations contained in the Convention;

(b) Legal developments designed to enhance the rule of law and the proper administration of justice that have occurred since the preparation of the report, such as aspects of the newly promulgated Code of Civil Procedure, Code of Criminal Procedure and Code of Practice for Lawyers. The Committee welcomes, in particular, that the Code of Criminal Procedure guarantees every accused person the right to avail himself or herself of the services of a lawyer at all stages of an investigation and trial;

(c) The State party's expression that its domestic law provides that no exceptional circumstances, including superior orders, may be invoked as a defence to a charge of torture, the reassurance that statements obtained by torture are inadmissible in proceedings, and the oral assurance that confessions are revocable at any point of proceedings. The State party's reassurance that corporal punishments are not imposed upon minors was noted;

(d) The competence of the Board of Grievances to hear allegations of violations of human rights, and that certain medical facilities possess appropriate forensic medical expertise for examination of alleged victims of torture. The Committee welcomes the establishment of a standing commission to investigate accusations concerning the subjection of any person to torture or other cruel, inhuman or degrading treatment or punishment during the arrest, detention and investigation of suspects;

(e) The State party's invitation to the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers to examine its law, policy and practice in this field.

## C. Subjects of concern

4. The Committee is concerned about the following:

(a) While noting the State party's indication that Shariah expressly prohibits torture and other cruel and inhuman treatment, the State party's domestic law itself does not explicitly reflect this prohibition, nor does it impose criminal sanctions. The Committee considers that express incorporation in the State party's domestic law of the crime of torture, as defined in article 1 of the Convention, is necessary to signal the cardinal importance of this prohibition;

(b) The sentencing to, and imposition of, corporal punishments by judicial and administrative authorities, including, in particular, flogging and amputation of limbs, that are not in conformity with the Convention.

(c) The different regimes applicable, in law and in practice, to nationals and foreigners in relation to their legal rights to be free from, and their ability to complain of, conduct in violation of the Convention. The Committee recalls that the Convention and its protections are applicable to all acts in violation of the Convention that occur within its jurisdiction, from which it follows that all persons are entitled, in equal measure and without discrimination, to the rights contained therein;

(d) Allegations of prolonged pre-trial detention of some individuals beyond the statutory limits prescribed by law, which heightens the risk of, and may on occasion of itself constitute, conduct in violation of the Convention. In this connection, the Committee expresses its concern at instances of denial, at times for extended periods, of consular access to detained foreigners. Moreover, the Committee is concerned at the limited degree of judicial supervision of pre-trial detention;

(e) Reports of incommunicado detention of detained persons, at times for extended periods, particularly during pre-trial investigations. The lack of access to external legal advice and medical assistance, as well as to family members, increases the likelihood that conduct violating the Convention will not be appropriately pursued and punished;

(f) The requirement of article 100 of the statute of the Directorate of Public Security for an investigating officer to endeavour "by judicious means" to ascertain the reasons for an individual's silence. While the article in question formally proscribes resort to torture or coercion, such a requirement unjustifiably heightens the risk of conduct violating the Convention;

(g) Cases of deportation of foreigners that have been drawn to the Committee's attention that seem to have been in breach of the obligations imposed by article 3 of the Convention;

(h) The jurisdiction of the Mutawe'en officials to pursue, inter alia, violations of the moral code and to proscribe conduct they identify as not conducive to public morality and safety. The Committee is concerned that the powers of these officials are vaguely defined by law, and that their activities may violate the Convention;

(i) The apparent failure of the State party to provide effective mechanisms to investigate complaints of breaches of the Convention;

(j) While noting the State party's institution of mechanisms for the purpose of providing compensation for conduct in violation of the Convention, as a practical matter, compensation appears to be rarely obtained, and full enjoyment of the rights guaranteed by the Convention is consequently limited.

## D. Recommendations

8. The Committee recommends, in particular, that the State party:

(a) Expressly incorporate within its domestic law a crime of torture in terms that are consistent with article 1 of the Convention;

(b) Re-examine its imposition of corporal punishments, which are in breach of the Convention;

(c) Ensure that its laws are in practice applied to all persons, regardless of nationality, gender, religious affiliation or other distinction, insofar as issues arising under the Convention are concerned;

(d) Ensure that all places of detention or imprisonment conform to standards sufficient to guarantee that no person is thereby subjected to torture or cruel, inhuman or degrading treatment or punishment;

(e) Ensure that its law and practice reflect the obligations imposed by article 3 of the Convention;

(f) Ensure that all persons who have been victims of a violation of their rights under the Convention have access, in law as well as in practice, to the means of obtaining full redress, including compensation, and that the persons who may be responsible for such violations are promptly and impartially investigated, and thereupon punished;

(g) Ensure that its Mutawe'en officials exercise a clear and precise jurisdiction, in conformity with the Convention and other applicable rules of non-discrimination, in a manner regulated by law and subject to review by ordinary judicial authority;

(h) Ensure, in practice, that persons detained in custody are able to exercise prompt access to legal and medical expertise of choice, to family members and, in the case of foreign nationals, to consular personnel;

(i) Ensure that the composition of the judiciary fully conforms to the standards imposed by the Basic Principles on the Independence of the Judiciary;

(j) Ensure that its training of law enforcement personnel includes education and information on the recognition of the physical consequences of torture consistent with that provided to a number of its medical personnel, in accordance with article 10 of the Convention;

(k) Adopt adequate measures to permit the creation of independent non-governmental organizations and the development of their activities in the area of the defence of human rights;

(l) Provide data in the next periodic report disaggregated, inter alia, by age, gender, ethnicity, nationality, geography and other status, on persons who are deprived of their liberty in prisons or elsewhere, or who are otherwise sanctioned where they may be vulnerable to acts in breach of the Convention, and the results of any cases of prosecution or sanction of police or other officials for acts prohibited by the Convention;

(m) Consider making the declaration under article 22 of the Convention; and

(n) Widely disseminate the Committee's conclusions and recommendations, in all appropriate languages, in the country.

---